

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHRISTINE STRAMIELLO,
Petitioner,
vs.
MYLES, *et al.*,
Respondents.

Case No. 2:13-cv-01881-JAD-GWF

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. Petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*. 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2.

Due to the defects presented, the pauper application will be denied, and the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application with all required attachments. It does not appear from the papers presented that a dismissal without prejudice would result in a promptly-filed new petition being untimely. In this regard, plaintiff at all times remains responsible for calculating the running of the limitations period as applied to his case and properly commencing a timely-filed habeas corpus action.

1 **IT THEREFORE IS ORDERED** that this action is **DISMISSED WITHOUT**
2 **PREJUDICE** to the filing of a new petition in a new action.

3 **IT FURTHER IS ORDERED** that the Clerk of the Court shall send petitioner two copies of
4 an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same, two
5 copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.

6 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but
7 may not file further documents in this action.

8 **IT IS FURTHER ORDERED** that all pending motions, including petitioner's motions at
9 Doc. 2 & 3 are **DENIED**.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

11 Dated this 3rd day of February, 2014.

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14 UNITED STATES DISTRICT JUDGE

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